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September 9, 2008

Via ECF

Hon. Marilyn Hall Patel
U.S. District Court for the Northern District of California
Courtroom 15, 18th Floor
450 Golden Gate Avenue
San Francisco, CA 94102

Re: I. Michael Ross v. Tomlab Optimization AB, et al.
Northern District of California Case No. C-08-01052-MHP

Dear Judge Patel:

I represent Defendant Anil Rao (“Rao”). This letter is regarding a discovery dispute summarized in a letter filed by Plaintiff yesterday.

Plaintiff served Requests for Production of Documents Addressed to Defendant Anil Rao (the “Requests”) on Rao by first class mail on August 25th. The Requests contain fifteen (15) demands for production of documents, and instruct that responsive documents were to be produced at the offices of Ross’ attorneys at 10:00 a.m. on September 30, 2008. Rao refused to serve a written response to the Requests or produce documents thereto because the Requests are formal discovery not yet allowed in this action as set forth in the Court’s Case Management Order.

Following the Case Management Conference, Rao produced the source and object code for every version of his GPOCS software program—the software program Plaintiff alleges infringes his DIDO copyright. GPOCS did not evolve from Ross’ DIDO code nor is GPOCS a modified version of DIDO as alleged in yesterday’s letter. Accordingly, there is no “source code in the process of evolution from plaintiff Ross’ DIDO source code ... through the current version of GPOCS code” that can be produced even if formal discovery were allowed at this point in this action. Plaintiff now has all the code to perform his comparison of GPOCS and DIDO for use at the ENE/Mediation.

Very truly yours,

/s/ Derek A. Eletich

DEREK A. ELETICH